

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. In September 2000 the petitioner applied for EP benefits. On her application she stated that she needed her husband's assistance with several homemaking chores, but she stated that she was capable of performing all tasks of daily

personal care by herself. On a separate form the petitioner's physician agreed with the petitioner's self-assessment.

3. The Department denied the petitioner's application because of the lack of the petitioner's need for assistance with items of personal care.

ORDER

The Department's decision is affirmed.

REASONS

The pertinent sections of the EP regulations are reproduced below.

¹ At the hearing in this matter, held on January 18, 2001, the petitioner's husband was given specific advice as to how to apply for Social Security and SSI benefits.

The petitioner is seeking EP benefits for her husband to help her with certain household tasks. Section 2751.1 of the above regulations defines "medically necessary personal care services". Section 2751.2 defines "medically necessary homemaker services". On the petitioner's application, and on her physician's statement, it was indicated that the petitioner does not require assistance with any of the listed personal care services, only with certain homemaker services (specifically, managing money, laundry, shopping, preparing meals, and performing heavy home chores).²³

Section 2751(5) of the regulations provides that to qualify as an Essential Person the caretaker of a spouse must be over 55 years old or providing his/her spouse with at least one personal care service (as opposed to a homemaker service). In this case it is clear that the petitioner does not require assistance with any personal care service. Therefore, her husband, who is not over 55, cannot qualify as an essential person, whether or not he, himself, is able to work or eligible for SSI in his own right.

² If the petitioner feels she does need assistance with any personal care service, she can reapply for EP benefits and check the appropriate box on the application form.

Inasmuch as the Department's decision in this matter is in accord with the EP regulations the Board is bound by law to affirm. 3 V.S.A. § 3091(d); Fair Hearing Rule No. 17.

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